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1952.

File No. 906/48

part VI

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E.R.S. Dep. No. 137  
57

RHABC DEPARTMENT

BRANCH B Class

Karnatak

Subject:—

Bombay Rent Act  
(194)

Original file 906/48 VI  
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D-4

B Class

Karnatak

File No.

906/48

Office of the R. L. A-

The view taken by the Secretary, Labour and Housing Department, expresses the correct legal position. However the following observations which were made by the authors of the Indian Penal Code in relation to the offer of a bribe are equally apposite to <sup>the</sup> offer of pugree : "The persons who, without any demand express or implied on the part of a public servant, to accept it, will be punishable under the general rule (law of abetment) as an instigator. But the person who implies complies with a demand, however signified, on the part of a public servant, cannot be considered as guilty of instigating that public servant to receive a bribe. We ~~XXXX~~ do not propose that such a person shall be liable to any punishment. We are strongly of opinion that it would be unjust to and cruel to punish the giving of a bribe in any case in which it could not be proved that the giver had really by his instigations corrupted the virtue of a public servant who, unless temptation had been put in his way, would have acted uprightly." The distinction between an offer and an invitation for offers should thus be borne in mind in dealing also with pugree cases.

Volunteers and offer as of a bribe and induces that public servant

Sd/- 31/3/50

Remembrancer of Legal Affairs.

U.R. to L. & H. D. No. 4497 dated 3rd April 1950.

X.D.  
12/7.

Office of the R. L. A.

A draft notification is appended.

2/- It has been represented that it is possible to get round the present notification by converting a gift into a sale on showing nominal consideration which moreover results in the loss of stamp revenue. Further more no donee, be he a relation or a third party, will be able to recover possession on evicting a tenant. In these circumstances it is perhaps desirable to expand the notification by including therein the case of a gift without any qualification as to be the donee being a relation or otherwise.

3/- It has further been suggested by the Chairman of the Incorporated Law Society that this opportunity may be taken to consider the question of exemption re-conveyances, deeds of appointment and transfers from trustees to beneficiaries as the Attorneys' profession is experiencing great difficulties in relation to such transactions. Additional entries Nos. 3 and 4 have, therefore, been inserted in the draft.

Sd/-

15/12/47  
Remembrancer of Legal Affairs.

U.R. to H. & L. G. D. No. 1841, dated the 16th February 1949

X.D.  
12/7.

Office of the Official Trustee.

High Court Extension 1st Floor,

BOMBAY, 4th August 1950.

No. 1475 of 1950.

TRUST :- Several.

From

The OFFICIAL TRUSTEE of BOMBAY,

To

The Remembrancer of Legal Affairs,  
Legal Department,  
Secretariat, BOMBAY.

Sir,

Re:- Riot Taxes,  
Collection of -----

Pursuant to the orders dated 15th November 1948 and 20th December 1948 passed by the Chief Presidency Magistrate under the provision of Sections 45 and 46 of the City of Bombay Police Act 1902 (as amended up to date) read with section 146, 147 and 148 and 151 of the City of Bombay Municipal Act 1888, in connection with the riots, I have been presented with bills, being Nos. XVI, XVII, and XVIII for additional General Tax in respect of properties under my administration under several deeds of Trust and have paid the amounts thereof to the Bombay Municipality. Copies of said orders are hereto annexed. Please return the same when done with.

Under the provisions of the Bombay Act No. XVI of 1950 I have now sought to recover the Riot Tax paid by me to the Municipality from the tenants of the respective properties pro rata on the area occupied by them.

Some of the flats in the said properties are occupied by Government Servants who are as follows :-

1. Shri R. M. Prabhu.  
Parliamentary Secretary to the Government of Bombay  
Public Works Department, Bombay  
[occupies flat in Broucha House Garden Road, Colaba].
2. The Estate Manager,  
Government of India estates,  
[occupies flat in Ahmedli Mansion, Motilibai Street,  
Byculla].
3. The Superintendent of Police,  
B.S. and C. I. Railway,  
[occupies flat in Ahmedli Mansion, Motilibai Street,  
Byculla].

These Government servants refused to pay the Riot Tax demanded from them on either of the following grounds (1) they Government servants and that Government bears that the burden of the rents of their flats, (2) that they were not tenants of the said properties at the time of the riots.

As I am accountable to the beneficiaries your opinion is sought as to whether it would be in order for me to file suits claiming riot taxes from these tenants or if there are any provision of any Act or law under which these persons could be exempted from the payment of Riot Taxes.

Please give the matter your very early consideration as I have to recover the Riot Tax within a year from the date of its payment to the Municipality which period will expire within a couple of months.

Yours faithfully,

Sd/-

OFFICIAL TRUSTEE, BOMBAY.

X.D.  
12/7.

CHIEF PRESIDENCY MAGISTRATE'S COURT, BOMBAY.

Rd: Bombay Communal Riots, 1945.

Order (as amended).

WHEREAS under the provisions of Section 45 (1) of the City of Bombay Police Act, 1902 (Act IV of 1902) as amended by Bombay Act LIX of 1947, I, Oscar H. Brown Esquire, C.I.E. O.B.E., Bar at Law., Chief Presidency Magistrate, Bombay have determined that a total sum of Rs. 1,57,653/- (rupees one lakh fifty seven thousand and six hundred fifty three) only, be awarded as compensation to claimants for riot compensation, I do hereby under the provisions of sub section (2), clause (a) and sub section (3), clauses (i) and (ii) of the said Section require the Municipal Commissioner for the City of Bombay to recover the said amount of Rs. 1,57,653/- by an addition to the general tax which shall be imposed and levied proportionately to the assessment in all the Municipal Wards within the Municipal limits of the City of Bombay.

2/- Under the provisions of sub section (7) of Section 45 of the said Act, I hereby order that the following persons be exempted from liability to pay any portion of the compensation to the extent herein after specified.

to 25 October 1945  
All persons who between the 1st September 1945, were owing, holding or managing :-

- (a) Hospitals - Private and public, in respect of these institutions only.
- (b) Libraries, in respect of these ~~xxxx~~ institutions only.
- (c) Temples, Fire temples Mosques, Churches, Chapels, Synagogues and other places of worship, in respect of these institutions only.
- (d) Buildings and lands in the city in respect of which no general tax is levied under the provisions of Section 143 of the City of Bombay Municipal Act II of 1888, in respect of the City of such buildings and lands only.
- (e) The Great Indian Peninsula Railways properties.
- (f) The Bombay Baroda and Central India Railway properties.
- (g) The Bombay Port Trust Properties in respect of the dock area only and
- (h) The properties owned by the Bombay Municipal Corporation (Improvements).

I further order that the date of ~~xxx~~ rateable value of which Riot taxes is to be levied should be taken as the date of the original order (i.e. 15th November 1948) and the persons who are the owners of the properties in the City of Bombay on that date (i.e. 15th November 1948) should be liable to pay the Riot Tax.

Note: The burden of proving to the satisfaction of the Municipal Commissioner or any Officer, he may appoint in this behalf a claim for exemption under the foregoing order shall be on the person making such claim. Provided that no claim for the exemption shall be entertained unless such claim is made within a period of 45 days of the first demand for payment of the addition of to the general tax.

Sd/- OSCAR H. BROWN,

Dated 15th Nov. '48.

Chief Presidency Magistrate.

CHIEF PRESIDENCY MAGISTRATE'S COURT? BOMBAY.

Re:- Bombay Riots - 1946-47.  
(September 1946 to December 1947 )

Order (as amended).

Whereas under the provisions of Section 45(2) of the City of Bombay Police Act IV of 1902, as amended by Bombay Act LIX of 1947, I Oscar H. Brown, Esquire, C.I.E. O.B.E., Bar-at-Law, Chief Presidency Magistrate Bombay have determined that a total sum of Rs. 82,61,466-13-0 (Eighty-two-lakhs sixty one thousand four hundred and sixty six, and annas thirteen) only, be awarded as compensation to claimants for riot compensation. I do hereby under the provisions of sub section (2) clause (a) and sub section (3) clauses (i) and (ii) of the said Section require the Municipal Commissioner for the City of Bombay, to recover the said amount of Rs. 82,61,466-13-0 by an addition to the general tax which shall be imposed and levied proportionately to the assessment in all the Municipal wards within the Municipal limits of the city of Bombay.

2/- Under the provisions of Sub-Section (7) of Section 45 of the said Act, I hereby order that the following persons be exempted from liability to pay any portion of compensation to the extent herein after specified.

All persons who between the 1st September 1946 to 31st December 1947 were owning, holding and managing:-

- (a) Hospitals - Private and Public, in respect of these institutions only.
- (b) Libraries, in respect of these institutions only.
- (c) Temples, Fire temples, Mosques, Churches, Chapels, Synagogues and other places of worship, in respect of these institutions only.
- (d) Buildings and lands in the city in respect of which no general tax is levied under the provisions of Section 143 of the City of Bombay Municipal Act III of 1888, in respect of these institutions only.
- (e) The Great Indian Peninsula Railway Properties.
- (f) The Bombay, Baroda and Central India Railway Properties.
- (g) The Bombay Port Trust Properties in respect of the Dock area only.
- (h) The Properties owned by the Bombay Municipal & Corporations (Improvements).

I further order ~~that~~ that the date of rateable value on which Riot tax is to be levied should be taken as the date of the original order (i.e. 20th December 1947) and the persons who are the owners of the properties in the City of Bombay on that date (i.e. 20th December 1948) should be liable to pay the Riot tax.

Note:- The burden of proving, to the satisfaction of the Municipal Commissioner or any officer he may appoint in this behalf a claim for exemption under the foregoing order shall be on the person making such claim. Provided that no such claim for exemption shall be entertained unless such claim is made within a period of 45 days of the first demand for payment of the addition of to the general tax.

Sd/- OSCAR H. BROWN,

X.D. 12/7.

Dated 20th December '48. Chief Presidency Magistrate.

CHIEF PRESIDENCY MAGISTRATE'S COURT, BOMBAY

Re:- Bombay Riots (February-June) 1946.

Order (as amended).

Whereas under the provisions of Section 45 (I) of the City of Bombay Police Act, 1902 (Act IV of 1902) as amended by the Bombay Act LVI of 1947 I, Oscar H. Brown, Esquire C.I.E. O.B.E., Bar-at-Law, Chief Presidency Magistrate, Bombay have determined that a total sum of Rs. 26,67,007-0-0 (rupees twenty six lakhs, sixty seven thousand and seven annas nil pies ten / only, be awarded as compensation to claimants for riot compensation. I do hereby under the provisions of sub section (2) clause (a) and sub section (3) Clauses (i) and (ii) of the said Section, require the Municipal Commissioner of the City of Bombay, to recover the said amount of Rs. 26,67,007 -0-0 by an addition to the general tax which shall be imposed and levied proportionately to the assessment in all the Municipal wards within the Municipal limits of the City of Bombay.

2/- Under the provisions of Sub section (7) of Section 45 of the said Act I hereby order that the following persons be exempted from liability to pay any portion of compensation to the extent hereinafter specified.

All persons who between the 1st of February 1946 and to 30th June 1946 were owning, holding and managing.

- (a) Hospitals Private and Public, in respect of these institutions only.
- (b) Libraries, in respect of these institutions only.
- (c) Temples, Fire temples, Mosques, Churches, Chapels, Synagogues and other places of worship in respect of these institutions only.
- (d) Buildings and lands in the city in respect of which no general tax is levied under the provisions of Section 143 of the City of Bombay Municipal Act III of 1888. in respect of these institutions only.
- (e) The Great Indian Peninsula Railway Properties.
- (f) The Bombay Baroda and Central Indian Railway Properties.
- (g) The Bombay Port Trust Properties in respect of Dock area only.
- (h) The properties owned by the Bombay Municipal Corporation for Improvements.

I further order that the date of rateable value on which riot tax is to be levied should be taken as the date of the original order (i.e. 15th November 1948) and the persons who are the owners of the properties in the City of Bombay on that date (i.e. 15th November 1948) should be liable to pay the Riot Tax.

Note:- The burden of proving to the satisfaction of the Municipal Commissioner, or any officer he may appoint in this behalf a claim for exemption under the foregoing order shall be on the person making such claims. Provided that no claims for exemption shall be entertained unless such claim is made within a period of 45 days of the first demand for payment of the addition to the general tax.

Sd/- OSCAR H. BROWN,  
Chief Presidency Magistrate, Bombay

Dated this 15th Day of November 1948.

X.D.  
12/7.